Supreme Court, U.S.
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No.

IN THE

Supreme Court of the United States

PRINCO CORPORATION, PRINCO AMERICA CORPORATION, GIGASTORAGE CORPORATION TAIWAN, GIGASTORAGE CORPORATION USA, AND LINBERG ENTERPRISE INC.,

Petitioners,

v.

U.S. PHILIPS CORPORATION,

Respondent.

On Petition for Writ of Certiorari To The United States Court Of Appeals For The Federal Circuit

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

Whether the Federal Circuit erred in holding that tying certain patents to other patents in mandatory package licenses is subject to a different and more permissive rule than this Court's well-established rule applicable to tying arrangements.

PARTIES TO THE PROCEEDINGS AND CORPORATE DISCLOSURE STATEMENT

The parties to the proceedings below were:

Princo Corporation;
Princo America Corporation;
Gigastorage Corporation Taiwan;
Gigastorage Corporation USA;
Linberg Enterprise Inc.;
U.S. Philips Corporation;
U.S. International Trade Commission;
Acme Production Industries; *
Bregusa Micro International LLC; *
Digital Storage Technology Co., Ltd.; *
DiscsDirect.Com; *
Jacsonic Group; *
J&E Enterprises, Inc.; *
KingPro Mediatek Inc.; *
NewEgg.Com, Inc.; *
PNY Technologies, Inc.; *
QTC Computer Systems, Inc.; *
STI Certified Products, Inc.; *
Symmetry Group, Inc.; *
Tiger Direct, Inc.; *
TKO Media, Inc.; *
U.S. DigitalMedia, Inc.; and *
Xtraplus Corporation; *

* These parties were terminated from the U.S. International Trade Commission's investigation and did not participate in the appeal to the Federal Circuit.

All parent corporations and publicly held companies that own 10 percent or more of the stock of the Petitioners are:

Princo America Corporation is a wholly owned subsidiary of Princo Corporation. Gigastorage Corporation USA is a wholly owned subsidiary of Gigastorage Corporation Taiwan.

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Princo Corporation, Princo America Corporation, Gigastorage Corporation Taiwan, Gigastorage Corporation USA, and Linberg Enterprise Inc. respectfully seek a writ of certiorari to the United States Court of Appeals for the Federal Circuit.

OPINIONS BELOW

The opinion of the Court of Appeals (App. 1a-35a) is reported at 424 F.3d 1179. The order denying the petition for rehearing en banc (App. 315a-316a) is unreported. The U.S. International Trade Commission's ("Commisson's") final determination (App. 36a-105a) is unreported. The Administrative Law Judge's ("ALJ's") initial determination (App. 106a-200a), findings of fact, and conclusions of law (App. 201a-314a) are unreported.[1]

JURISDICTION

The Court of Appeals entered judgment on September 21, 2005 and denied the petition for rehearing en banc on December 19, 2005. On March 13, 2006, Chief Justice Roberts extended the time within which to file this petition for writ of certiorari to and including April 19, 2006. The jurisdiction of this Court rests on 28 U.S.C. § 1254(1).

STATUTORY PROVISION INVOLVED

Section 271(d)(5) of the Patent Act, 35 U.S.C. §271(d)(5), provides in pertinent part:

> (d) No patent owner otherwise entitled to relief for infringement or contributory infringement of a patent shall be denied relief or deemed guilty of misuse or illegal extension of the patent right by reason of his

[1] The Appendix contains those portions of the ALJ's voluminous Initial Determination and Findings of Fact which are relevant to patent misuse; those portions relating to infringement and validity are irrelevant to this petition and have been omitted.